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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/723,455	11/25/2003	Kim R. Smith	163.1735USU1	5980
7590 Merchant & Gould P.C. P.O. Box 2903 Minneapolis, MN 55402-0903		06/12/2007	EXAMINER OGDEN JR, NECHOLUS	
			ART UNIT 1751	PAPER NUMBER
			MAIL DATE 06/12/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/723,455

Applicant(s)

SMITH ET AL.

Examiner

Necholus Ogden

Art Unit

1751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 30 March 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1, 3-16 and 39 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 3-16 and 39 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

***Response to Amendment***

***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claim 1 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

3. The aforementioned claim as amended states that the anionic surfactant component and the sheeting agent are different, however, the examiner has been unable to locate the basis for this amendment. Moreover, applicant's specification states on page 8, lines 20-30 and page 11, lines 25-27 that said anionic surfactant and sheeting agent may be the same component. Therefore, this phrase is considered new matter and appropriate clarification and/or corrections are required.

4. With respect to the rejoining of the withdrawn method claims as suggested by applicant, the examiner respectfully agrees to rejoin the withdrawn claims once allowable subject matter is obtained with respect to the composition claim.

1. Claims 1, 3-16 and 39 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over CA (2,292,966).

CA '966 discloses a hard surface cleaning composition comprising a nonionic surfactant such as 0.001 to 20% by weight of a polyalkoxylated alcohol (page 6, lines 21-26); up to 10% by weight of anionic and nonionic surfactants (page 9, lines 22-30), wherein said anionic surfactants include alkyl benzene sulfonates, alkyl sulfates, and said nonionic surfactants include ethoxylated alcohols and alkyl polyglycosides (page 10, lines 23-30). CA '966 further includes solvents such as organic alcohols in an amount from 1 to 10% by weight (page 1, lines 23-28) and includes glycol ethers (page 12, lines 1-9). With respect to the dispersant component, CA '966 includes up to 0.5% by weight of copolymers of acrylic acid and derivatives thereof (page 13, lines 1-8). See examples E1-E3.

As this reference teaches all of the instantly required it is considered anticipatory.

In the alternative, CA '966 is silent with respect to the visible precipitation and grain hardness, however, these limitations would have encompass these limitations given that each of the components of the claimed invention are taught and required by CA '966.

2. Claims 1, 3-16 and 39 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over EP (0630965).

EP '965 discloses a liquid hard surface cleaning composition comprising a sequestrant comprising a maleic acid-olefin copolymer in amounts from 0.02 to 1.0 (page 2, line 50-page 3, line 11). EP '965 further includes 0.05 to about 10% by weight of detergent surfactants such as anionic, nonionic, and zwitterionic surfactants. The anionic surfactants include alkyl sulfates; sulfonates, alkoxylated sulfates and the

zwitterionic surfactants include amidoalkylenesulfobetaine surfactants (pages 4-5). The solvents of EP '965 include up to 50% by weight of glycol ethers and ethoxy alkanols (page 8, lines 39-68). See examples A-D.

As this reference teaches all of the instantly required it is considered anticipatory.

In the alternative, EP '965 is silent with respect to the visible precipitation and grain hardness, however, these limitations would have encompass these limitations given that each of the components of the claimed invention are taught and required by EP '965.

3. Claims 1, 3-11 and 13-16 and 39 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over WO 94/14942

WO 94/14942 disclose a hard surface cleaning composition comprising 1 to 25% by weight of a surfactant such as anionic and nonionic surfactants such as alkyl sulfates and ethoxylated alcohols (page 3, line 8-page 4, line 35). WO 94/14942 further include 1 to 30% by weight of a film forming polymer such as polymers of acrylic acid and methacrylic acid (page 7, lines 7-35); and 0.05 to 11% by weight of an alcohols (page 8, lines 15-19). Other solvents include lower ether alcohols, ethanol and isopropanol (page 9, lines 1-8). WO 94/14942 teaches that said concentrations are diluted with water in ratios from 1:10 to 1:200.

As this reference teaches all of the instantly required it is considered anticipatory.

In the alternative, WO '942 is silent with respect to the visible precipitation and grain hardness, however, these limitations would have encompass these limitations

Art Unit: 1751

given that each of the components of the claimed invention are taught and required by WO '942.

4. Claims 1, 3-16 and 39 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Cummings (5,750,482).

Cummings discloses a non-streaking glass cleaning composition comprising a co-solvent in an amount from 0 to 10% by weight and comprises a glycol ether (col. 4, lines 15-51); 0.001 to 2% by weight of a anionic, nonionic, cationic and zwitterionic surfactant (col. 5, lines 7-64); and 0.02 to 2.0% by weight of a builder component such as a polyacrylic resin (col. 7, lines 29-35). See examples S, U and Y.

As this reference teaches all of the instantly required it is considered anticipatory.

In the alternative, Cummings is silent with respect to the visible precipitation and grain hardness, however, these limitations would have encompass these limitations given that each of the components of the claimed invention are taught and required by Cummings.

5. Claims 1, 3-16 and 39 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Misselyn et al (5,486,307).

Misselyn et al disclose a light duty liquid duty cleaning composition comprising 0 to 10% by weight of a grease release polymer; 1 to 50% by weight of at least one surfactant such as anionic, nonionic and zwitterionic surfactants; 1-15% by weight of a co-surfactant; 0 to 15% by weight of a solubilizing agent and the balance being water (col. 4, lines 35-60). Misselyn et al teach that said anionic surfactant includes alkyl benzene sulfonates, alkyl sulfates; alkyl ether sulfates and said nonionic surfactant

Art Unit: 1751

include alkyl polyglucosides and mixtures thereof (col. 6-col. 7, line 50). The co-surfactant includes alkyl glycol ether solvent components (col. 9, lines 24-62).

As this reference teaches all of the instantly required it is considered anticipatory.

In the alternative, Misselyn et al is silent with respect to the visible precipitation and grain hardness, however, these limitations would have encompass these limitations given that each of the components of the claimed invention are taught and required by Misselyn et al.

Claims 1, 3-16 and 39 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-26 and 1-15 of copending Application No. 11/264,820 and 11/018,046, respectively. Although the conflicting claims are not identical, they are not patentably distinct from each other because they overlap in subject matter pertaining to cleansing compositions comprising dispersants, anionic surfactants and sheeting agents.

### ***Response to Arguments***

6. Applicant's arguments filed 3-30-2007 have been fully considered but they are not persuasive.

Applicant argues that CA '966 does not teach or suggest that the anionic surfactant and the sheeting agent are different.

The examiner contends that the two components may be and are anionic surfactant components. Moreover, as directed by applicant's specification at page 11, lines 25-27 and page 8, lines 20-30, wherein the anionic surfactant and the sheeting agent may be the same component.

Applicant further argues that the prior art of record does not teach or suggest the amount of water hardness anti-precipitant mixture to the anionic surfactant component is sufficient to prevent visible precipitation when the cleaning composition is diluted with dilution water having one-grain hardness at a weight ratio of 1:1.

The examiner contends that prior art of record teaches each of the claimed components in their requisite proportions wherein the amount of anti-precipitant mixture is encompassed by each of the prior art compositions and said mixtures would have been inherently sufficient to prevent visible precipitation since each of the component in their requisite proportions are disclosed for the purpose of cleaning hard surfaces or glass surfaces.

### ***Conclusion***

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.




Art Unit: 1751

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Necholus Ogden whose telephone number is 571-272-1322. The examiner can normally be reached on M-T, Th-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Douglas McGinty can be reached on 571-272-1029. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Necholus Ogden  
Primary Examiner  
Art Unit 1751

No  
6-6-07